

Aug 26, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NOEL ENRIQUE GONCE, JR.,

Petitioner,

v.

CHIEF SCOTT SOUSA,

Respondent.

No. 4:20-cv-5090-SMJ

**ORDER DISMISSING ACTION**

On June 1, 2020, Petitioner Noel Enrique Gonce, Jr., a pretrial detainee at the Benton County Jail, filed a *pro se* Petition Under 28 U.S.C. § 2241 for Writ of Habeas. ECF No. 1. Petitioner neither paid the filing fee nor submitted a completed Application to Proceed without Prepayment of Fees as required by Rule 3(a) of the Rules Governing Section 2254 Cases in the United States District Courts.

By letter dated February 10, 2020, the Clerk's Office advised Petitioner of these deficiencies. ECF No. 3. The Clerk's Office provided him with an application to proceed without prepayment of fees to complete and return. ECF No. 3-1. Petitioner has not complied with this directive and has filed nothing further.

On July 22, 2020, this Court ordered Petitioner to submit a completed Application to Proceed without Prepayment of Fees within **thirty days** of the date

1 of that Order. ECF No. 4. In the alternative, Petitioner was advised he could pay the  
2 full \$5.00 filing fee. *Id.* The Court cautioned the Petitioner that his failure to do so  
3 would result in the dismissal of this case. *Id.* Petitioner has neither paid the filing  
4 fee nor returned the completed Application to Proceed without Prepayment of Fees  
5 by the due date of August 21, 2020.

6 Accordingly, **IT IS HEREBY ORDERED:**

- 7 **1.** This action is **DISMISSED** without prejudice for failure to pay the  
8 filing fee or comply with the *in forma pauperis* requirements of Rule  
9 3(a) of the Rules Governing Section 2254 Cases in the United States  
10 District Courts.

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //


19 //

20 //

1           **2.**     The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal  
2           from this decision could not be taken in good faith and there is no basis  
3           upon which to issue a certificate of appealability. *See* 28 U.S.C. §  
4           2253(c); Fed. R. App. P. 22(b). A certificate of appealability is  
5           therefore **DENIED**.

6           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order,  
7 **ENTER JUDGMENT**, provide copies to *pro se* Petitioner at this last known  
8 address and **CLOSE** the file.

9           **DATED** this 26<sup>th</sup> day of August 2020.

10                                   
11                                 SALVADOR MENDEZ, JR.  
                                      United States District Judge